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RECEIVED

October 1, 2008

Ms. Ann Kobayashi, Chair and Members
Executive Matters Committee
City Council
City and County of Honolulu
Honolulu, HI 96813

**Subject: Bill 10 (2008) CD1, Proposed CD2
Relating to Transit-Oriented Development**

Dear Chair Kobayashi and Executive Matters Committee Members,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii ("LURF"), which is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide our testimony **in strong general support** of Bill 10 (2008), Proposed CD2 relating to Transit-Oriented Development, ("TOD") however, we believe that the Council should seriously consider the following recommendations:

- **TOD regulations belong in the LUO.** We support placement of the TOD regulations in Chapter 21, Land Use Ordinance ("LUO") rather than Chapter 13. The TOD provisions are zoning matters, which more properly belong in the LUO, which already has the necessary regulatory procedures and enforcement mechanisms in place.
- **Re-insert list of stakeholders to be involved in the planning process.** CD2 adds a new sentence at the end of the first paragraph that refers to a "community-based process" and pedestrian and bicycle-friendly designs. We agree with the reference to pedestrian and bicycle-friendly designs, however we would **recommend that the Council re-insert subsection (b)** of the Administration's bill, which proposes that the "planning process be inclusive, open to residents, businesses, landowners, community organizations, government agencies, and others." This will assure all major community groups will be invited to participate in the TOD planning process.

- **Add reference to affordable housing incentives.** Section 4, Subsection (a)(3) should be amended to include affordable housing incentives. Section (a)(3) should read "Potential opportunities for affordable housing, and as appropriate, with supportive services and developer incentives."
- **Explanation of "And delete everything after that".** In Bill description of CD2 there is a reference to revisions of Section 5, subsection (c) that states "[a]nd deletes everything after that." We do not understand what this refers to.
- **Hotels should be permitted as part of TOD.** We support the new provision in CD2 Section 5, subsection (h), which provides that "hotels may be permitted" in TOD, however, the following should be added "as provided in the general plan and development plans, or make recommendations for revisions to those plans." We understand that in the near future, DPP will be undertaking a major review of resort and hotel use on Oahu and recommendations for amendments to the general plan and development plans.

Perhaps the Council and DPP can work on a new CD version that everyone could agree with. LURF would also like to submit a number of comments for the Committee's consideration:

Background of Bill 10 (2008), CD2. The City Council and Administration of the City and County of Honolulu (City) have initiated a major mass transit project that has the potential to fundamentally reshape the form and character of Honolulu. The Council has selected a fixed guideway system and a Locally Preferred Alternative (LPA) alignment route for the project under Ordinance 07-01. Appropriate TOD land use regulations along the alignment and around the rapid transit stations will be crucial. The purpose of this bill is to amend the LUO to provide guidance on how to determine well-defined, meaningful and appropriate zoning regulations and incentives for areas around each type of transit station. The intent of the bill is to enact a TOD ordinance and planning and implementation process which will promote the economic, social, and environmental well-being of the City, which will include the following:

- Provides an open, inclusive and visionary planning process based on community-based input;
- Implements the Oahu General Plan and applicable regional development plans;
- Stems urban sprawl across Oahu's agricultural and open space lands;
- Increases the quality of life through rejuvenated community character (including "place-making") and the development of livable, walkable communities;
- Preserves and enhances historic, cultural, scenic, natural and other community resources and landmarks;
- Increases transit ridership; and
- Reflects an understanding of the relationships between zoning, financing and real estate marketing dynamics.

Proposed CD 2 – The CD2 makes the following amendments:

- ❖ Section 1, Paragraph 6 The council, therefore, finds that to protect the public interest and welfare, the [Land Use] Revised Ordinances of Honolulu is to be amended to provide guidance on how to determine zoning regulations for areas around each transit station;
- ❖ Adds the following sentence to the first paragraph in Section 3: The process shall be community-based and shall assure that pedestrian and bicycle friendly designs are emphasized.”;
- ❖ Deleted Section 4(a)(3), which recommended zoning controls and consideration of form-based zoning and prohibition of specific uses.
- ❖ Amends Section 4(d) to state: “The plan shall be submitted to the applicable neighborhood boards by the department at least forty-five (45) days prior to submittal to the planning commission. After review by the applicable neighborhood board, the department shall submit this plan to the planning commission and t[T]he planning commission shall hold a public hearing and transmit its recommendation to the city council within 60 days after submittal of the plan by the [applicable neighborhood board] department. If the plan is not transmitted by the planning commission within 60 days, the council may amend and adopt the plan [without recommendations from the planning commission]. If the plan is not transmitted by the planning commission within 60 days the plan shall be deemed recommended by the planning commission and the council may amend and adopt the plan [without recommendations from the planning commission]. The city council may amend the plan and shall adopt the plan by resolution;
- ❖ Amends the title of Section 5 to read, TOD district minimum [requirements] standards.
- ❖ Amends Section 5(c) to state: “Allow for the e[E]limination or reduction of the number of required off-street parking spaces including expanded allowances for joint use of parking spaces as appropriate. And deletes everything after that;
- ❖ Amends Section 5 to read, [Landscaping requirements that enhance] Landscaping that enhances the pedestrian experience, support station identity, and complement adjacent structures;
- ❖ Adds in Section 5 that hotels may be permitted; and
- ❖ Moves all Sections to Chapter 13.

LURF Comments. We commend the Council for its interest in TOD and this bill and commend the DPP for drafting the original bill and their diligence and expertise in soliciting and implementing recommendations from the various community and stakeholder groups. LURF’s main recommendations are listed above and in the conclusion below. The following are LURF’s other comments and recommendations relating to the proposed Bill 10 (2008), CD2.

- **“Planning and Growth Management Tool.”** Organizations such as the Urban Land Institute, LURF and the Hawaii Developer’s Council have repeatedly taken the position that TOD is a valuable planning and growth management tool, and much more than just a method for planning and regulating development around transit stations to encourage the use of transit and reduce transportation

costs. Thus, LURF respectfully recommends that the Findings and Purpose section provide clear statements reflecting that TOD is also a valuable planning and growth management tool which will assist in directing growth in Honolulu.

- **Use of Private Property/Downzoning/Takings/Condemnation.** The alignment and location of transit stations will affect existing private businesses, and small and large private property owners, as it is most likely that private property would be used for the transit stations and surrounding uses, including public amenities and parks. It is unclear, however, how these issues will be handled. LURF would respectfully recommend the addition of a provision stating that the City will provide for the clarification of the criteria and the operation of TOD processes which involve the use of private property, downzoning, takings and condemnation in each of the proposed sections relating to Neighborhood TOD plans and TOD special district minimum requirements.
- **Incentives, Private-Public Partnerships and Synergy between Users and Land Uses.** Creative and meaningful incentives and private-public partnerships can encourage private property owners to cooperate with the transit alignment, and the location of the transit stations and public facilities, thereby avoiding the necessity of the City's use of private property, downzoning, takings and condemnation. While the current CD1 draft currently mentions the concept of incentive programs and the investigation of public-private partnerships, LURF respectfully recommends that the Council obtain information on, and seriously discuss the potential forms and types of incentives and public-private partnerships prior to adopting this TOD ordinance. LURF would also recommend including additional provisions in the TOD ordinance (in each of the proposed sections relating to Neighborhood TOD plans sections relating to TOD special district minimum requirements), which would encourage and emphasize the importance of developing and implementing incentives and public-private partnerships and synergy and interaction between the various users and land uses;
- **Phasing and Timing of the TOD Neighborhood Plan and Special District Plan process.** There is a question regarding what happens to development in the proposed alignment and station areas during the time the community and the City are working on the TOD Neighborhood Plan and the Special District TOD Plans. What happens to the development and other plans which are already developed or being developed for properties near the transit stations? What happens to density allowances under existing zoning – will they be “grandfathered-in” as minimum densities under the new TOD zoning? It would be helpful if this ordinance could clarify what the status and treatment of planned projects in the proposed alignment and station areas during the TOD planning process. Also, as mentioned in HDC's testimony, a time frame or planning horizon on how the TOD ordinance is envisioned to be implemented over time would be helpful.
- **Infrastructure Systems Planning Process.** A critical factor in the success of a TOD is the planning, financing and implementation of infrastructure to support the TOD. In the proposed CD1 Draft, §21-9.100-1(c) provided for infrastructure analyses, including capacities of water, wastewater, and roadway systems. Thus, LURF would respectfully recommend that the TOD ordinance

include provisions detailing that the infrastructure systems planning process shall include infrastructure analyses of capacity, the development of a financing plan, including alternatives such as community facilities district financing and an implementation plan.

- **Amendment of applicable regional development plans.** We believe that there will be situations where the current applicable regional development plan may be inconsistent with the Neighborhood TOD plans, or the Special District TOD Plans. In anticipation of such situations, LURF respectfully recommends that Section 4, Subsection (c) be amended as follows:

The plan shall be consistent with any applicable regional development plan, or make recommendations for revisions to those plans.

- **Role of the Community-based Input.** Is the role advisory only? What happens if the community strongly recommends a taking of private property?
- **Best Practices List.** Proposed Section 2 of CD2 version lists various elements of a TOD ordinance. To the extent possible, this list should also include other elements which are prevalent in successful TODs.
- **Drafting and Authority over the TOD Ordinance Neighborhood Plans and Special District Plans.** There is also a question regarding which agency will draft and have the authority over the TOD Ordinance Neighborhood Plans and Special District Plans – will it be the Department of Planning and Permitting? Or a Transit Authority?

Conclusion. LURF is in strong general support of Bill 10 (2008), CD2 relating to TOD, and respectfully requests that the Council consider our comments and recommendations. Our general comment is that the Council strongly consider the DPP's recommendations, in particular the following: listing the general types of stakeholders to be included in the planning process; and recommending that the TOD land use regulations remain in Chapter 21 (LUO), instead of moving the LUO sections to Chapter 13. We also support the new provision, which references that hotels may be part of a TOD, however, such uses should also be consistent with the general plan and development plans, or make recommendations for revisions to those plans. Perhaps the Council and DPP can work on a new CD version that everyone could agree with.

We appreciate the opportunity to present our comments regarding this matter.